



Substitute Senate Bill No. 166

Public Act No. 16-59

AN ACT EXPANDING UTILIZATION OF PATIENT-DESIGNATED CAREGIVERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective October 1, 2016*) (a) For purposes of this section and section 2 of this act:

(1) "Caregiver" means any individual who a resident designates to provide post-discharge assistance to the resident in the resident's home in the community. The term "caregiver" includes, but is not limited to, a relative, spouse, partner, friend or neighbor who has a significant relationship with the resident. For the purposes of this section and section 2 of this act, the term "caregiver" shall not include any individual who receives compensation for providing post-discharge assistance to the resident.

(2) "Home" means the dwelling that the resident considers to be the resident's home in the community. The term "home" shall not include, and the provisions of this section and section 2 of this act, shall not apply to, a discharge to any rehabilitation facility, hospital, assisted living facility, group home or any other setting that was not the resident's home in the community immediately preceding the resident's admission.

Substitute Senate Bill No. 166

(3) "Resident" means a resident of a nursing home facility or the resident's representative.

(4) "Nursing home facility" has the same meaning as provided in section 19a-521 of the general statutes.

(5) "Post-discharge assistance" means nonprofessional tasks provided by a designated caregiver to a resident following the resident's discharge from a nursing home facility in accordance with the written discharge plan of care signed by the resident or the resident's representative, which involves assisting with basic activities of daily living, instrumental activities of daily living and carrying out support tasks, such as assisting with wound care, administration of medications and use of medical equipment.

(b) The Department of Public Health may adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, to set minimum standards for nursing home facility discharge planning services. Any such standards shall include, but need not be limited to, requirements for (1) a written discharge plan prepared in consultation with the resident, or the resident's family or representative, and the resident's physician, and (2) a procedure for advance notice to the resident of the resident's discharge and provision of a copy of the discharge plan to the resident prior to discharge.

(c) Whenever a discharge plan from a nursing home facility indicates that a resident shall be discharged to the resident's home, the nursing home facility shall allow the resident to designate a caregiver at, or prior to, the time that a written copy of the discharge plan is provided to the resident. A resident is not required to designate any individual as a caregiver and any individual designated as a caregiver under this section is not obligated to perform any post-discharge assistance for the resident or agree to receive any instruction required under this section.

Substitute Senate Bill No. 166

(d) If a resident designates a caregiver pursuant to subsection (c) of this section prior to receiving written discharge instructions, the nursing home facility shall:

(1) Record the resident's designation of caregiver, the relationship of the designated caregiver to the resident and, if known, the name, telephone number and address of the resident's designated caregiver in the discharge plan.

(2) Make more than one reasonable attempt to notify the resident's designated caregiver of the resident's discharge to the resident's home as soon as practicable. In the event the nursing home facility is unable to contact the designated caregiver, the lack of contact shall not interfere with, delay, or otherwise affect the medical care provided to the resident or an appropriate discharge of the resident.

(3) Prior to discharge, provide caregivers with instructions in all post-discharge assistance tasks described in the discharge plan. Training and instructions for caregivers may be provided in writing or conducted in person or through video technology, as determined by the nursing home facility to effectively provide the necessary instruction. Any training or instructions provided to a caregiver shall be provided in nontechnical language, to the extent possible. At a minimum, this instruction shall include: (A) A written, live or recorded demonstration of the tasks performed by an individual designated by the nursing home facility who is authorized to perform the post-discharge assistance task and is able to perform the demonstration in a culturally competent manner and in accordance with the requirements of the nursing home facility to provide language access services under state and federal law; (B) an opportunity for the caregiver to ask questions about the post-discharge assistance tasks; and (C) answers to the caregiver's questions provided in a culturally competent manner and in accordance with the requirements of the nursing home facility to provide language access services under state and federal law.

Substitute Senate Bill No. 166

(4) Document in the resident's medical record any training for initial implementation of the discharge plan provided to the resident, the resident's representative or the designated caregiver. Any instruction required under subdivision (3) of this subsection shall be documented in the resident's medical record, including, at a minimum, the date, time and subject of the instruction.

Sec. 2. (NEW) (*Effective October 1, 2016*) (a) Nothing in this section or section 1 of this act shall be construed to create a private right of action against a nursing home facility, a nursing home facility employee, or any consultants or contractors with whom a nursing home facility has a contractual relationship.

(b) A nursing home facility, a nursing home facility employee or any consultants or contractors with whom a nursing home facility has a contractual relationship shall not be held liable, in any way, for the services rendered or not rendered by the caregiver to the resident at the resident's home.

(c) Nothing in this section or section 1 of this act shall be construed to obviate the obligation of an insurance company, health service corporation, hospital service corporation, medical service corporation, health care center, as defined in section 38a-175 of the general statutes, or any other entity issuing health benefits plans to provide coverage required under a health benefits plan.

(d) (1) An individual designated as caregiver pursuant to subsection (c) of section 1 of this act shall not be reimbursed by any government or commercial payer for post-discharge assistance that is provided pursuant to section 1 of this act.

(2) Nothing in this section or section 1 of this act shall be construed to impact, impede or otherwise disrupt or reduce the reimbursement obligations of an insurance company, health service corporation,

Substitute Senate Bill No. 166

hospital service corporation, medical service corporation, health care center, as defined in section 38a-175 of the general statutes, or any other entity issuing health benefits plans.

(3) Nothing in this section or section 1 of this act shall delay the discharge of a resident or the transfer of a resident from a nursing home facility to another facility.

(4) Nothing in this section or section 1 of this act shall affect, nor take precedence over, any advance directive, conservatorship or other proxy health care rights as may be delegated by the patient or applicable by law.

Sec. 3. Section 19a-535 of the general statutes is amended by adding subsection (j) as follows (*Effective October 1, 2016*):

(NEW) (j) Whenever a facility is discharging a resident to the resident's home in the community, the discharge shall be in accordance with sections 1 and 2 of this act.

Approved May 25, 2016